



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

Rec'd
AUG 23 2004
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AUG 10 2004

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Xcel Energy's Proposed Comanche Unit 3

FROM: Adam Kushner, Acting Director
Air Enforcement Division *C. Kushner*
Office of Enforcement and Compliance Assurance

TO: Richard Long, Director
Air, Toxics and Radiation Program
U.S. EPA Region VIII

As you are aware, Xcel Energy is proposing to construct a new 750 megawatt coal-fired electric steam generating unit at its existing Comanche Station located near Pueblo, Colorado.

Representatives of Xcel have stated to EPA that the new Comanche Unit 3 is scheduled to be in service by late 2009, and that the BACT-level emissions control equipment (low NOx burners (LNB), selective catalytic reduction, flue-gas desulfurization (FGD), and baghouse) would be installed on this new unit. According to the company, these controls would be designed and operated to meet permitted emission limits of 0.1 lb/mmBtu for SO₂ and 0.1 lb/mmBtu for NO_x. In addition, LNBs would be installed at Unit 1 and LNBs and an FGD would be installed on Unit 2 for the purpose of providing creditable emissions reductions of NO_x and SO₂ sufficient to "net" the new unit out of PSD permitting requirements for these pollutants. Xcel proposes to submit a PSD permit application for particulate matter and carbon monoxide to the Colorado Department of Public Health and Environment Air Pollution Control Division.

EPA issued Xcel Energy a Notice of Violation, dated June 26, 2002, for making major modifications to Comanche Unit 1 and Unit 2 and Pawnee Unit 1 without first obtaining PSD pre-construction permits and installing BACT controls for SO₂ and NO_x. Therefore, the Air Enforcement Division has evidence that these Units may be out of compliance with the Clean Air Act. Pursuant to the New Source Review Workshop Manual (Draft October 1990) Chapter A, Section III.B.4., "A source cannot receive emission reduction credit for reducing any portion of actual emissions which resulted because the source was operating out of compliance." If EPA prevails in its enforcement case (or settles with the company), the permitting of the new unit may be found to have occurred in violation of the law, and Xcel may be in violation of PSD for construction of

Comanche Unit 3 as well. In other words, if the emissions reductions from the installation of additional controls on Comanche Unit 1 or Unit 2 are less than would result from the installation of BACT controls if required for compliance with PSD permitting requirements, then these reductions are not creditable for use in any netting calculations for the Comanche Unit 3. We request that you notify the APCD of this possibility before the State takes final action with regard to any application from Xcel for an air emissions permit to construct Comanche Unit 3, in order to make sure the State and company are fully aware of the potential impact of the ongoing enforcement action.

If you would like to discuss this matter, please contact Ron Rutherford of my staff in the AED Western Field Office in Lakewood, Colorado to arrange a call with me and knowledgeable AED technical and legal staff. Ron can be reached at 303-236-9515 or vial EPA email.

Cc: Martin Hestmark, Director
Technical Enforcement Program – Air and Toxics

SUMMARY OF EPA REGIONAL HAZE REGULATIONS

Overview

- EPA's regional haze regulations are intended to improve visibility, or visual air quality, in 156 national parks and wilderness areas across the country. These areas include the Grand Canyon, Yosemite, Yellowstone, Mount Rainier, Shenandoah, the Great Smokies, Acadia, and the Everglades.
- The regional haze regulations call for States to establish goals for improving visibility in national parks and wilderness areas and to develop long-term strategies for reducing emissions of air pollutants that cause visibility impairment.
- Allows nine Western States participating in the Grand Canyon Visibility Transport Commission to implement their specific recommendations for improving visibility across the Colorado Plateau within the framework of the national program.

Legal Background

- The 1977 Amendments to the Clean Air Act set a national goal for visibility as "the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution."
- 1980 regulations to address the visibility problem that is "reasonably attributable" to a single source or small group of sources. At that time, EPA acknowledged that the regulations were only the first phase addressing visibility.
- The 1990 Amendments to the Clean Air Act require EPA to work with several Western States to address visibility in the Grand Canyon National Park. EPA established the Grand Canyon Visibility Transport Commission in 1991.
- The 1990 Amendments required EPA to take regulatory action on regional haze within 18 months of receiving the Commission's recommendations.
- EPA proposed the regional haze regulations in July 1997 and issued the final regulations in conjunction with issuing new national ambient air quality standards for fine particulate matter (known as PM_{2.5} -- those particles less than 2.5 microns in diameter). The same particulate matter that causes serious respiratory health effects also degrade visibility.

State Plans

- EPA's final regional haze regulations do not establish "presumptive targets" for showing reasonable progress. Instead, States have flexibility in determining reasonable progress goals for Class I areas.
- States' reasonable progress goal is aimed at reaching natural background conditions in 60 years.
- The rule requires States to develop long-term plans including enforceable measures designed to meet reasonable progress goals.

Best Available Retrofit Technology (BART) – Key Element of State Plans

- One of the principal elements of the visibility protection provisions of the Clean Air Act addresses installation of best available retrofit technology -- or BART -- for certain existing sources placed into operation between 1962 and 1977. The regional haze rule requires three basic state plan elements related to BART:
 - 1) a list of BART-eligible sources (includes sources of air pollutants that are reasonably anticipated to contribute to visibility impairment in a Class I area);
 - 2) a regional analysis of the cumulative emission reductions and changes in visibility that would result from "best retrofit" control levels on sources subject to BART; and
 - 3) the BART emission limits for each subject source, or an alternative measure such as an emissions trading program for achieving greater reasonable progress in visibility protection than implementation of source-by-source BART controls.
- In determining BART, the State can take into account several factors, including the existing control technology in place at the source, the costs of compliance, energy and non-air environmental impacts of compliance, remaining useful life of the source, and the degree of visibility improvement that is reasonably anticipated from the use of such technology.
- In May 2004, EPA proposed guidelines for Best Available Retrofit Technology (BART) Determinations under the Regional Haze Rule and established presumptive BART that EPA would approve within the State plans.
- BART SO₂

EPA proposes FGD's at 90 to 95% removal a presumptive BART for electric utilities. Therefore, the State plans must require FGDs at coal-fired utilities

impacting Class 1, unless the State demonstrates that it is not appropriate on a case-by-case basis.

- **BART NO_x**

EPA proposes that combustion controls at 0.20 lbs/mmBTU for NO_x is a presumptive BART for electric utilities. Therefore, the State plans must require 0.20 lbs/mmBTU for NO_x at coal-fired utilities impacting Class 1 areas, unless the State demonstrates that it is not appropriate on a cases-by-case basis.

- A State BART determination within the State plan may be more stringent than the presumptive level.

Western Regional Air Partnership (WRAP)

- The WRAP is a voluntary organization of western states, tribes and federal agencies. It was formed in 1997 as the successor to the Grand Canyon Visibility Transport Commission, which made over 70 recommendations in June 1996 for improving visibility in 16 national parks and wilderness areas on the Colorado Plateau. The WRAP is administered jointly by the Western Governors' Association (WGA) and the National Tribal Environmental Council (NTEC).
- Comprised of governors (or designees) from Alaska, Arizona, California, Colorado, Idaho, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming (but not Nevada), as well as 13 western tribes; Governor Leavitt was a co-chair of WRAP.

Carol
Smith/ENF/R8/USEPA/US
10/20/2004 04:28 PM

To David Rochlin/ENF/R8/USEPA/US@EPA, Joshua
Rickard/ENF/R8/USEPA/US@EPA
cc
bcc
Subject Fw: NOx in the West Paper for Review & Comment

----- Forwarded by Carol Smith/ENF/R8/USEPA/US on 10/20/2004 04:28 PM -----



Douglas
Latimer/P2/R8/USEPA/US
10/20/2004 11:07 AM

To Albion Carlson/ENF/R8/USEPA/US@EPA
Carol Smith/ENF/R8/USEPA/US@EPA, Cynthia
Cody/P2/R8/USEPA/US@EPA, Richard
cc Long/P2/R8/USEPA/US@EPA, Callie
Vidulich/P2/R8/USEPA/US@EPA, Martin
Hestmark/ENF/R8/USEPA/US@EPA
Subject Re: Fw: NOx in the West Paper for Review & Comment

ENFORCEMENT CONFIDENTIAL, INTERNAL DOCUMENT, ATTORNEY-CLIENT PRIVILEGE

(b) (5) AWP ACC



(b) (5)

Albion Carlson/ENF/R8/USEPA/US



Albion
Carlson/ENF/R8/USEPA/US
10/18/2004 10:44 AM

To Douglas Latimer/P2/R8/USEPA/US@EPA
cc
Subject Fw: NOx in the West Paper for Review & Comment

— Forwarded by Albion Carlson/ENF/R8/USEPA/US on 10/18/2004 10:43 AM —

Carol
Smith/ENF/R8/USEPA/US
10/15/2004 03:03 PM

To Carol Smith/ENF/R8/USEPA/US@EPA
Albion Carlson/ENF/R8/USEPA/US@EPA, Callie

Videtich/P2/R8/USEPA/US@EPA, Cynthia
Reynolds/ENF/R8/USEPA/US@EPA, David
cc Rochlin/ENF/R8/USEPA/US@EPA, Jonah
Staller/RC/R8/USEPA/US@EPA, Joshua
Rickard/ENF/R8/USEPA/US@EPA, Martin
Hestmark/ENF/R8/USEPA/US@EPA, Richard
Long/P2/R8/USEPA/US@EPA
Subject Re: NOx in the West Paper for Review & Comment

David is out on the 21st, so lets try again. How is everyone's availability on Wed., October 20th at 3PM?
Carol Smith/ENF/R8/USEPA/US

Carol
Smith/ENF/R8/USEPA/US
10/15/2004 09:18 AM

To Cynthia Reynolds/ENF/R8/USEPA/US, Albion
Carlson/ENF/R8/USEPA/US, Joshua
Rickard/ENF/R8/USEPA/US, David
Rochlin/ENF/R8/USEPA/US, Richard
Long/P2/R8/USEPA/US, Callie Videtich/P2/R8/USEPA/US,
Jonah Staller/RC/R8/USEPA/US
cc Martin Hestmark/ENF/R8/USEPA/US@EPA
Subject NOx in the West Paper for Review & Comment

(b) (5) AWP ACC



(b) (5) AWP ACC





Frank P. Prager
Assistant General Counsel

4653 Table Mountain Drive
Golden, Colorado 80403

Cys: Videtich
Hestmark
Bond
Rec'd: 9/18/02
RRL

September 16, 2002

The Honorable Jeffrey Holmstead
Assistant Administrator
Office of Air and Radiation
United States Environmental Protection Agency
Washington, DC 20460

Re: Request for Applicability Determination – S.A. Robotics Remote Boiler
Blaster Cleaning System, Xcel Energy Comanche Station, Pueblo, CO

Dear Assistant Administrator Holmstead:

I am writing on behalf of Public Service Company of Colorado (d/b/a "Xcel Energy") to request a determination of the applicability of EPA's new source review requirements under the prevention of significant deterioration program ("NSR") to a planned installation of a "remote boiler blaster cleaning system" at Unit 1 of Xcel Energy's Comanche Station. The proposed project is designed solely to improve the capabilities of the boiler cleaning systems that currently are utilized to remove slag buildup on boiler tubes. The project would improve the unit's efficiency, safety, reliability and availability without changing its basic design parameters.

Xcel Energy believes that this innovative cleaning system should fall within the routine maintenance, repair and replacement ("RMR&R") exemption of the NSR regulations.¹ Under normal circumstances, Xcel Energy would be confident that EPA would agree that the NSR requirements would not apply, given the routine and beneficial nature of the cleaning activities in boiler operation. However, EPA Region VIII issued a Notice of Violation ("NOV") to Xcel Energy on June 27, 2002, alleging violations of the NSR program at Xcel Energy's Comanche and Pawnee facilities. In the NOV, EPA alleged that Xcel Energy violated the NSR program by replacing reheaters on Comanche Units 1 and 2 in the mid-to-late 1990s. Xcel Energy will discuss the issues raised by the NOV with EPA Region VIII in the months ahead. For purposes of the request before you, however, Xcel Energy notes that the NOV targets projects that were designed to improve the efficiency, safety, reliability and availability of the Comanche boilers and thus has raised uncertainty about the impact of NSR on the company's efforts to implement the innovative remote boiler blaster cleaning system. To alleviate this uncertainty, and for the reasons set forth

Xcel Energy also believes that, even if the project were not subject to the RMR&R exemption, it would not result in an increase in emissions, and therefore would not trigger NSR.



September 16, 2002

The Honorable Jeffrey Holmstead
Assistant Administrator
Office of Air and Radiation
United States Environmental Protection Agency
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¹ Xcel Energy also believes that, even if the project were not subject to the RMR&R exemption, it would not result in an increase in emissions, and therefore would not trigger NSR.

below, Xcel Energy requests that you issue an applicability determination that the project does not trigger NSR.

I. Background: The Comanche Station

Xcel Energy is a subsidiary of Xcel Energy Inc., a public utility holding company that provides a comprehensive portfolio of energy-related products and services to 3.2 million electricity customers and 1.6 million natural gas customers in nearly a dozen states. In Colorado, Xcel Energy is the largest electric and gas supplier in the state, serving the majority of Colorado's population, including the city of Denver. Xcel Energy's Comanche Station is located on 2005 Lime Road, southeast of Pueblo, Colorado. Comanche Station is a base-load, coal-fired steam electric generating station consisting of two operating units constructed in the early 1970s with capacities of 325 MW (Unit 1) and 335 MW (Unit 2). The units are first in the dispatch order in the Xcel Energy Colorado electric system. Their reliable operation is critical to reliable electric service for the people of Colorado. The Units burn low-sulfur, sub-bituminous coal from the Powder River Basin ("PRB") and are equipped with baghouses and low-NO_x burners. The 2001 emissions from the facility are set forth below:

Comanche Station Emissions - 2001

Unit	NO _x Tons	NO _x lb/mmbtu	SO ₂ Tons	SO ₂ lb/mmbtu
Unit 1	2849	0.22	7671	0.6
Unit 2	3994	0.32	8239	0.65

Boiler Slagging at the Comanche Station.

Low-sulfur PRB coal has higher ash content than the higher BTU bituminous coal commonly mined in Colorado. After operations began, Xcel Energy discovered that, in the harsh operating conditions typical of utility boilers, the PRB coal deposited unexpectedly large quantities of ash in certain sections of the Comanche units, especially the arch nose, reheater and superheater sections. Exhibit A is a drawing of Comanche Unit 1 showing the location of the most severe of these ash deposits. Once deposited, this ash becomes molten in the high operating temperatures of the boiler and forms a hard slag on the boiler tubes that interferes with proper combustion and air flow, degrades boiler tubes and causes tube leaks. Slag build-up ultimately can result in forced outages of the unit if the slag is not removed. In the worst case, the slag can form into pieces as large as an automobile before breaking off of the tubes and falling to the boiler bottom, causing significant damage.

To remove this slag, Xcel Energy uses, among other things, "soot blowers" and high-pressure "water lances" to clean the boiler while on-line. Soot blowers and water lances force high-pressure air or water streams at whole sections of the boiler to remove ash and slag build-up. These boiler cleaning systems are standard in the industry and are used in almost every coal-fired boiler. However, especially with boilers that burn high-ash PRB coal,

they are blunt, imprecise cleaning instruments and often are ineffective. In the case of the Comanche boilers, Xcel Energy is often forced to undertake extensive boiler cleaning procedures while the unit is off-line, which can include the use of shotguns and explosives to remove slag. These activities require personnel to enter the boiler, exposing them to hazardous working conditions (e.g., falling slag, high temperatures, cramped quarters, explosives). If the slag is not addressed, it could force Xcel Energy to shut the unit down to clean the tubes and replace leaking and damaged equipment.

The Remote Boiler Blaster Cleaning System

S.A. Robotics is a small, high-technology engineering firm located in Loveland, Colorado. It is in the business of marrying high-tech materials and advanced robotics technology to create robotic systems for operation in highly hazardous environments. S.A. Robotics is adept at designing systems that can function effectively in environments with extreme chemical, radioactive, or thermal conditions. S.A. Robotics has approached Xcel Energy with a proposal for a remote boiler blaster cleaning system that would allow Xcel Energy to clean the slag buildup in Comanche Unit 1 while the unit is operating.

Specifically, S.A. Robotics has proposed that Xcel Energy utilize a robotic arm to remove the built-up slag. The robotic arm would be controlled from outside the boiler and could be inserted in a variety of different ports throughout the unit. It would allow operators to gain access to any part of the boiler that may be fouled by slag buildup. Instead of using high-pressure, imprecise air or water blasting, the robotic arm would spray a small stream of cool water on the slag. In the high-temperature environment of the operating boiler, the small stream of water would change the temperature characteristics of the silica and other materials in the slag and cause it to fracture. The fractured slag would then crack and fall off the boiler tubes during normal boiler operation. It would be collected and removed along with the rest of the boiler bottom ash. Because the robotic arm would continuously clean the boiler during normal operations, the slag that drops off of the tubes would be relatively small and would cause no damage when it falls. Enclosed as Exhibit B are several S.A. Robotics drawings of the robotic arm and other parts of the remote boiler blaster cleaning system demonstrating the system's deployment and operation.²

If successful, the S.A. Robotics project would augment the use of soot blowing and water lances, reduce wear and tear on the system, and improve the efficiency and reliability of the Comanche Station (and by extension, the entire Xcel Energy electrical system). It would help ensure that the plant is available when needed to meet customer demand. The S.A. Robotics project would allow Xcel Energy to improve personnel safety and reduce structural risks arising as a result of the potentially dangerous activities (e.g., slag fall, explosives handling) associated with more traditional boiler cleaning methods.

² The drawings presented in Exhibit B are confidential business information as set forth in 40 C.F.R. §§ 2.201-2.311. Accordingly, the drawings should not be made available as public information and the procedures and protections set forth in 40 C.F.R. §§ 2.100-2.121 should be followed upon request for disclosures of such information. The drawings have been marked as confidential business information.

While the remote boiler blaster cleaning system is innovative, it is at its heart merely an advanced version of the boiler cleaning methods currently employed at Comanche. The cost of the system is relatively modest: S.A. Robotics estimates that the system will cost approximately \$3-\$4 million. It does not change the fundamental operational parameters of the boiler, such as its fuel burning capacity or its maximum emission rate, yet the system would improve the safety, availability, reliability, and efficiency of Comanche Unit 1. For the reasons set forth below, it should not trigger NSR.

II. Under the standards applied by the *WEPCO* court, the remote boiler blaster cleaning system is exempt as RMR&R.

Under the NSR regulations, the requirement to obtain an NSR permit is triggered by a "major modification." A "major modification" is defined as a "physical change or change of method of operation that results in a significant net increase in actual emissions." 40 C.F.R. § 52.21(b)(2)(i). The term "physical change" is defined to exclude RMR&R projects. 40 C.F.R. § 52.21(b)(2)(iii). The regulations do not define what activities are routine and fit within the exemption.

There are some cases and guidance that help to clarify the scope of the RMR&R exemption, the most significant of which is Wisconsin Electric Power Company v. Riley, 893 F.2d 901 (1990) ("WEPCO"). In the WEPCO decision, the Seventh Circuit Court of Appeals held that a massive, unprecedented replacement project – involving replacement or refurbishment of major components of each unit – would trigger NSR. The Court clearly did not intend, however, to read the RMR&R exemption out of the rule. The Court directed that each project must be examined on a case-by-case basis, taking into consideration the scope, frequency, cost, and purpose of each project to determine whether the RMR&R exemption applies. EPA has subsequently used the WEPCO factors in several of its case-by-case NSR applicability determinations. Based on these factors, the S.A. Robotics remote boiler blaster cleaning system should fall within the RMR&R exemption:

- Scope. Although the project is unique and uses state-of-the-art technology and materials, its actual impact on the boiler will be minimal. The project will require the installation of small ports into which the robotic arm would be placed. The arm itself will be a moveable piece of equipment that will be inserted into the boiler only where needed to address the build up of slag. Indeed, there would be no physical change to the boiler, other than the small ports into which the arm would be inserted for cleaning. It will not change in any fundamental way the manner in which the boiler operates nor will it involve any other parts of the power plant. The boiler will not have a greater maximum capacity or greater emissions rate. It will merely improve the unit's on-line cleaning capability.
- Frequency. There is scarcely any activity within the utility industry that is more common than using water or air to clean the boiler to remove ash and slag. Even brand new boilers have slag build-up. Very few coal-fired boilers can operate without using soot blowers or water lances to clean slag from the

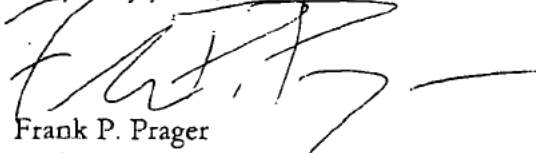
boiler tubes. The remote boiler blaster cleaning system is merely a more sophisticated technique of performing the same task that is performed with extraordinary frequency throughout the entire industry and at the Comanche station.

- Cost. The cost of the remote boiler blaster cleaning system is relatively small for a power plant of this size: S.A. Robotics estimates that the total cost of the project will be approximately \$3-\$4 million.
- Purpose. The purpose of the project is to improve the boiler tube cleaning process, reduce cleaning costs, improve personnel safety and ensure the efficient and reliable operation of the unit. Although the robotic arm is innovative, the cleaning function it serves is highly routine. The project would allow the plant to operate without the continuing burden of slag build-up and removal. It does not extend the life of the unit nor is it designed to change the plant's fundamental operations or heat input capacity of the boiler.

Based on the foregoing, Xcel Energy asks that you issue an applicability determination finding that the remote boiler blaster cleaning system would be within the RMR&R exemption and would not trigger NSR requirements.

We would be happy to discuss this request with you in more detail at your convenience. Please feel free to call me at 720-497-2038 if you have any questions.

Very truly yours,



Frank P. Prager
Assistant General Counsel
Xcel Energy

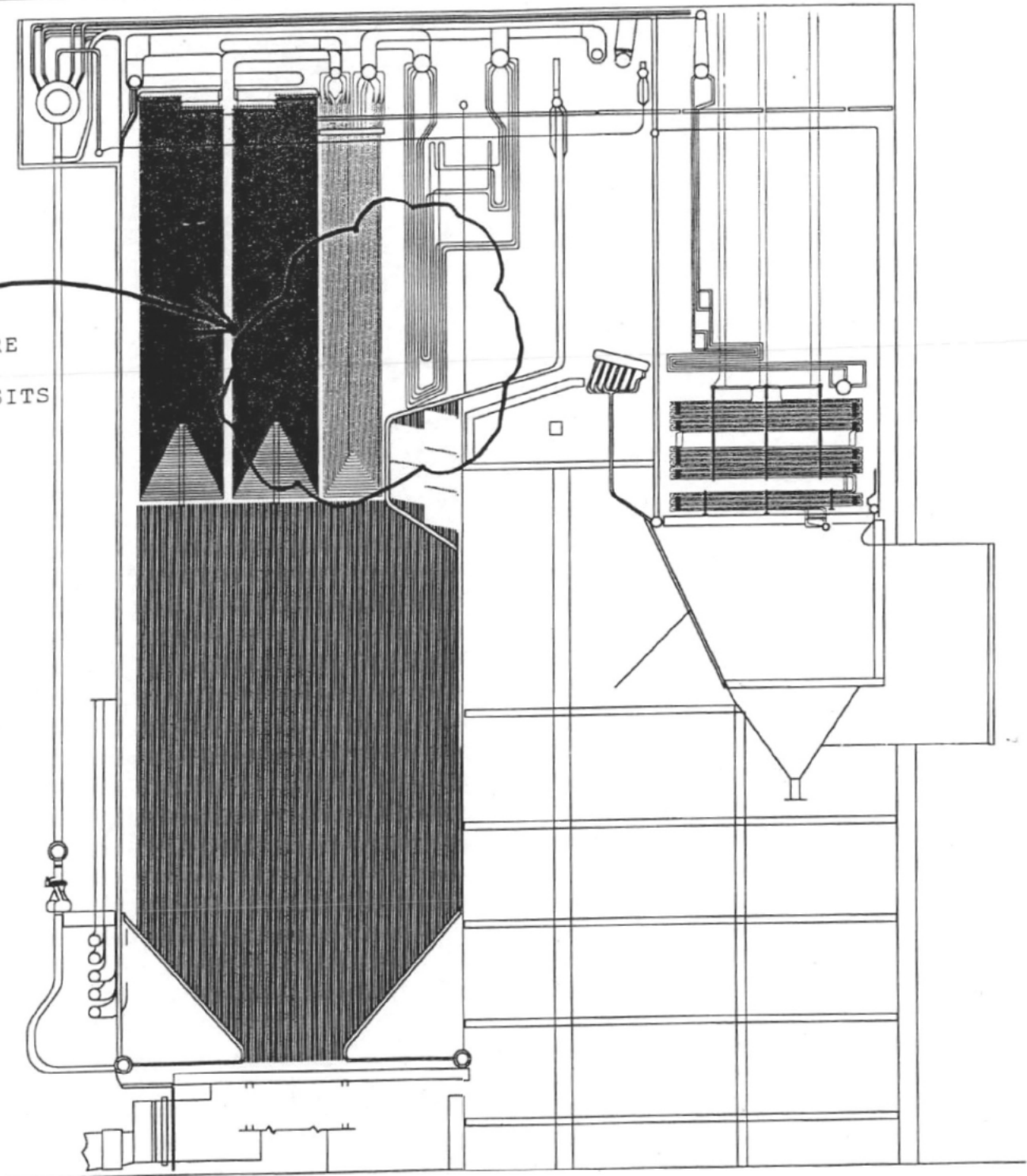
Attachments

cc: Robbie Roberts, Regional Administrator, EPA Region VIII
Steven D. Page, Director, Office of Air Quality Planning and Standards
Bill Harnett, Director, Information Transfer and Program Integration Division
Richard Long, Director of Air and Radiation Program, EPA Region VIII
Doug Benevento, Active Executive Director, Colorado Department of Public Health
and Environment
Olon Plunk, Vice President, Environmental Services, Xcel Energy
Charles H. Fuller, Vice President, Regional Generation, Xcel Energy
William Bumpers, Esq., Baker Botts

EXHIBIT A

BOILER OUTLINE COMANCHE UNIT #1

SEVERE
SLAG
DEPOSITS








-  SUPERHEATER DIVISION PANELS FRONT & REAR
-  REHEATER PENDANT
-  HORIZONTAL SUPERHEATER
-  SUPERHEATER PENDANT PLATEN
-  ECONOMIZER

EXHIBIT B

CBI





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

DEC 28 2000

8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Michael J. Price, Plant Manager
Public Service Company of Colorado Pawnee Power Plant
14940 Morgan County Rd. 24 PO Box 857
Brush, CO 80723

RE: Request for Information Pursuant to
Section 114(a) of the Clean Air Act
Regarding EPA's Coal-fired Power Plant
Investigations

Dear Mr. Price:

The United States Environmental Protection Agency (EPA) hereby requires Public Service Company of Colorado to provide certain information as part of an EPA investigation to determine the Clean Air Act (CAA or the Act) compliance status of your owned and/or operated Pawnee Station, located in Brush, Colorado.

Pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), the Administrator of EPA is authorized to require any person who owns and/or operates an emission source to establish and maintain records, make reports and provide such other information as he may reasonably require for the purposes of determining whether such person is in violation of any provision of the Act. In order for EPA to determine whether a violation has occurred, you are hereby required, pursuant to Section 114(a) of the CAA, to provide responses to the following questions and requests for information regarding the above identified electric generating station.

EPA has reasons to believe that physical changes or changes in the method of operation may have been made at this power plant. These reasons are, in part, reflected in the enclosed graphs (see Enclosure 3) reflecting operations and expenditures at this plant since 1981. These changes may have resulted in or could in the future result in increased emissions from this plant. Therefore, you are hereby required to respond to the following questions and requests for information within the time periods specified (see Enclosure 1 for instructions and definitions).



Printed on Recycled Paper

1. Provide a list of all owners and operators of the above referenced station, including the percentage ownership for each owner.
2. For each Coal Fired Boiler Unit (as defined in Attachment 1) at the generating station identified above, provide a list of all capital projects of greater than \$100,000 for which physical construction commenced after January 1, 1980, to the present which provides the work order number, project description, authorized expenditure, actual expenditure, date of approval, and project completion date.
3. Provide copies of all Capital Appropriation Requests (as defined in Attachment 1) for capital projects which involved the equipment identified in (a.) - (m.) below for all projects with actual or authorized total expenditures greater than \$500,000 at the generating station identified above for the period of January 1, 1980, to the present:
 - a. Boiler casing and boiler floor/wall tube replacements for each unit,
 - b. Economizer, reheater(s), primary and secondary superheaters, steam drums, and/or primary and secondary air pre-heater replacements for each unit,
 - c. Induced draft (ID) fans, forced draft (FD) fans and fan motor replacements for each unit,
 - d. Condenser and/or feed water heater replacements for each unit,
 - e. Flue gas recirculation (FGR) replacements or deactivations for each unit,
 - f. Pulverizer, exhauster, burner and/or cyclone replacements for each unit,
 - g. Balanced draft conversion projects,
 - h. Turbine rotor/turbine shell replacements or design changes,
 - i. Low-NOx burner (LNB) installation and modifications/ retrofits including any model or size changes made to the burners for each unit, and including changes to the ignitors [i.e., include model, size (in MMBTUs/hour), etc.],
 - j. Scrubber retrofits and/or design change projects,
 - k. Any Electrostatic Precipitator (ESP) retrofits or design changes,
 - l. Coal handling system changes to increase feed rate or other changes to coal preparation,
 - m. Changes made to equipment to accommodate the burning of used oil in each boiler.



The Capital Appropriation Requests are to include, but not be limited to,

- 1) copies of all Capital Appropriation Requests with authorizing signatures,
- 2) equipment specifications,
- 3) project justifications,
- 4) cost/benefit analyses,
- 5) all alternative options analyses,
- 6) all proposals and price quotations submitted by equipment suppliers or contractors,
- 7) all purchase orders and/or contracts entered into that exceeded \$500,000,
- 8) copies of all correspondence from/to a contractor regarding the material being supplied to support the project that discussed changes in material type or design from the existing component(s) being replaced,
- 9) any engineering or performance test, or related documents, and
- 10) post-completion project and/or equipment guarantee evaluation that was conducted.

Additionally,

- 1) identify the dates when the work orders were completed and the equipment was returned to service,
 - 2) provide all work order project completion reports, and
 - 3) provide copies of any emissions calculations performed before and after the capital project.
4. Provide copies of the original and all subsequent boiler cross-sectional diagrams for each boiler at the station identified above.
 5. Provide original (nameplate) and all subsequent boiler design ratings for each boiler at the station identified above as follows:
 - a. Steam flow rate
 - (1) Peak
 - (2) Sustained,
 - b. Maximum heat input capacity (based on the coal heat content),



- c. Gross megawatt (MW) capacity,
 - d. Net MW capacity.
6. From January 1980 to the present, provide the following for each Coal Fired Boiler Unit at the station identified above for each calendar year:
- a. Capacity factor on a monthly and annual basis,
 - b. Availability factor on a monthly and annual basis,
 - c. Operating hours on a monthly and annual basis,
 - d. Coal consumption on a monthly and annual basis,
 - e. Fuel Quality (e.g., % sulfur, % ash, heat content, etc.) on a monthly and annual basis,
 - f. Total gross and net generation (MWhr) on a monthly and annual basis,
 - g. Heat rate (BTU/KWhr) on a monthly and annual basis,
 - h. Identify the top ten annual causes of forced outages by MWhr of lost generation,
 - i. Annual planned outage rate by MWhr of lost generation,
 - j. Lost generation (in MWhr) due to forced, maintenance or scheduled outages and curtailments, caused by:
 - (1) Boiler related components,
 - (2) Turbine generator components,
 - (3) Pollution control performance,
 - (4) Balance of Station,
 - (5) Miscellaneous,
 - k. Scheduled/planned boiler unit retirement dates,
 - l. All historical capability test results of each unit (MW),
 - m. Monthly peak hourly average generation (MW),
 - n. Summary results of any or all stack tests for the following pollutants,
 - (1) NO_x,
 - (2) SO₂,
 - (3) PM and PM₁₀,
 - (4) Air Toxics (Pb/Hg/HCl/Other).



7. Monthly and annual emissions (lb/mmBTU and tons/year) of the following air pollutants. Emissions information responsive to this request includes annual emissions reports submitted to the applicable state regulatory agency, and all data obtained from any continuous emission monitor (CEM) installed in the flue gas stream. [Specify the timeframes and pollutants, where emissions data has already been reported to the U.S. EPA, (i.e., Acid Rain CEM data/reports, New Source Performance Standards (NSPS) data/reports, etc.). Acid Rain CEM data that has been submitted to the EPA to comply with Title IV requirements and air emissions reports submitted to EPA to comply with applicable NSPS requirements does not have to be resubmitted to satisfy this Section 114 information request letter]:
 - (1) NO_x,
 - (2) SO₂,
 - (3) PM and PM₁₀,
 - (4) Air Toxics (Pb/Hg/HC1/Other).
8. For each Coal Fired Boiler Unit at the station identified above, provide copies of all Prevention of Significant Deterioration/New Source Review (PSD/NSR) permit applications submitted to the state regulatory agency with a description of the modifications, and all subsequent correspondence with the state regulatory agency regarding the permit application. Also, provide copies of all PSD/NSR permits that were issued for each Coal Fired Boiler Unit at the station identified above.
9. Provide copies of all correspondence, memoranda, telephone discussion summaries, etc., with either the federal or state regulatory agency regarding PSD/NSR/NSPS applicability determinations for any modifications and/or reconstructions between 1978 and the present for each Coal Fired Boiler Unit at the station identified above.
10. List and provide all life extension/life optimization studies, evaluations, assessments and reports, including any reports and/or correspondence, etc., related to extending the life for each boiler or boiler component at the station identified above.
11. Provide the initial installed cost of each Steam Generating Unit (as defined in Attachment 1) at the station identified above.
12. Identify the total capital expenditures on an annual basis made to each Steam Generating Unit over the life of each unit at the station identified above.



13. Identify the start and completion dates of all scheduled and maintenance outages that occurred for each Coal Fired Boiler Unit at the station identified above for the period January 1, 1980, to the present and provide copies of all outage reports for each Coal Fired Boiler Unit at the station identified above.
14. For each Coal Fired Boiler Unit at the station identified above, provide all Generating Availability Data System (GADS) reports from January 1, 1980 to the present, listing the following for each unit:
 - a. Forced outages and curtailments (causes and MWHR lost),
 - b. Scheduled or planned outages and curtailments (causes and MWHR lost),
 - c. Duration (hours) of each and all outages and curtailments.
15. Provide the current "projected capital outlay plan" or other appropriate document(s) that sets forth the operational and equipment changes and identifies the projected capital expenditures that Public Service Company of Colorado will be making in the next five years to the generating station identified above.

You must submit the response to item numbers 1, 2, and 3 within thirty (30) calendar days after your receipt of this letter. The remainder of the information requested shall be submitted within forty-five (45) calendar days after receipt of the letter. This information should be submitted to :

U.S. Environmental Protection Agency, Region VIII
999 18th Street, Suite 300
Denver, CO 80202-2466
Attention: Albion Carlson (ENF-T)

If you anticipate being unable to respond fully to this request within the time period specified, you must submit a sworn declaration by a responsible corporate official within 20 calendar days after your receipt of this letter, specifying what information will be provided within the time specified, describing what efforts have been/are being made to obtain other responsive information and providing a detailed schedule of when such other responsive information can be provided. Upon receipt and based upon such declaration, EPA may extend the time in which responsive information must be provided.

Your response to this requested information must be certified by a duly authorized officer or agent of Public Service Company of Colorado by signing the enclosed Statement of Certification (see Enclosure 2) and returning it with your response. All information submitted in response to this request must be certified as true, correct, accurate, and complete by an individual with sufficient knowledge and authority to make such representations on behalf of Public Service Company of Colorado.



A knowing submittal of false information in response to this request may be actionable under Section 113(c)(2) of the CAA, as well as 18 U.S.C. §§ 1001 and 1341. Public Service Company of Colorado should also be aware that a failure to comply fully with the terms of this request may subject it to an enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413.

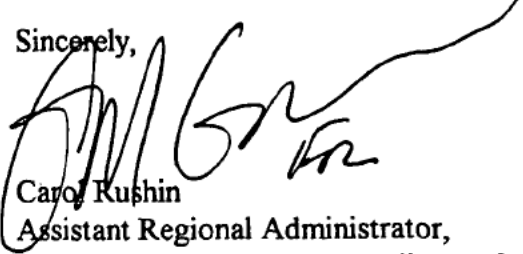
This letter in no way affects the obligations of Public Service Company of Colorado to comply with other local, State and Federal laws and regulations. In addition, nothing in this letter shall be construed to be a waiver by EPA of any rights or remedies under the Clean Air Act.

Public Service Company of Colorado may assert a claim of business confidentiality regarding any portion of the information submitted in response to this request (except for emission data). (See 40 CFR 2.201 *et seq.*) Failure to assert such a claim will render all submitted information available to the public without further notice. If you believe the disclosure of specific information would reveal a trade secret, clearly identify such information.

The requirements of this letter are not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. §3501 *et seq.*

If you have any questions, please contact Albion Carlson of my staff concerning this matter at 303-312-7076.

Sincerely,


Carol Rushin
Assistant Regional Administrator,
Office of Enforcement, Compliance, &
Environmental Justice

Enclosures: 1) Instructions and Definitions
 2) Statement of Certification
 3) Data Charts for Big Stone Power Plant

cc: Margie Perkins, Director
 Air Pollution Control Division
 Colorado Department of Public Health and Environment

William Woodard
Public Service Company of Colorado Pawnee Station



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8-Net - Headlines

Xcel case draws scrutiny

Xcel case draws scrutiny

EPA boss phones Denver regulators on pollution action

By Todd Hartman, Rocky Mountain News
July 11, 2002

The EPA's top administrator took the highly unusual step this week of asking the agency's Denver-based regulators why they took action against Xcel Energy in a major air pollution case.

Christie Whitman phoned top regional Environmental Protection Agency officials Tuesday, after Denver newspapers reported that the EPA accused Xcel of violating the Clean Air Act by failing to install required pollution controls at two Front Range power plants.

Robbie Roberts, the agency's regional administrator, and Carol Rushin, the agency's regional enforcement chief, said Whitman was seeking clarification about what action EPA was taking against the state's largest energy provider, and why.

"There was no indication of any concern in terms of the process we were following," Rushin told the Rocky Mountain News. She described the conversation as brief and cordial, and said Whitman made no suggestion the agency shift direction in the case.

But Rushin acknowledged the call was unprecedented in her seven years at the agency. Never before has an EPA administrator called her about an enforcement step called a "notice of violation" - a prelude to a possible penalty.

Whitman's inquiry comes as the Bush administration is pushing a new approach to regulating power plant emissions. EPA regulators are still working under existing laws opposed by the energy industry.

At issue is a legal provision under the Clean Air Act, called New Source Review, which requires power plants to improve pollution controls if they make "significant modifications" to their operations. The administration favors a narrower definition of modifications that would allow certain changes without costly equipment upgrades.

Meanwhile, EPA officials in Denver are moving ahead with the Xcel case under the existing laws.

In its filing, the agency said Xcel has emitted "massive unpermitted and . . . illegal" emissions from power plants near Pueblo and Fort Morgan, and warned the Minneapolis-based company it could be fined \$27,500 a day for violations dating to 1994.

Xcel has denied the EPA allegations, arguing it conducted routine maintenance at its plants that did not require installation of new pollution controls.

The company has said it will "vigorously defend" itself.

Rushin said Whitman isn't opposed to the enforcement step.

"I just feel that there's a lot of buy-in into the fact that while the administration is looking at (legal) reforms and looking at different clean-air packages to put forward, that there still needs to be compliance with the environmental laws on the books," Rushin said.

For additional information, please contact Vaughn Whatley.

EPA charges that Xcel plants violate Clean Air Act

By Todd Hartman
and David Kesmodel
ROCKY MOUNTAIN NEWS

7/9/02

The Environmental Protection Agency has charged Xcel Energy, Inc. with major violations of the Clean Air Act at two of the company's Front Range power plants.

In a filing made public Monday, the EPA alleges that the state's largest energy provider has made significant upgrades to coal-fired plants near Pueblo and Fort Morgan without installing pollution-control equipment required by federal law.

The allegations, contained in a document called a "notice of violation" are the potential prelude to an enforcement action that could require the Minneapolis-based utility to make costly improvements to its plants and pays fines of up to \$27,500 a day.

"These violations have resulted in the release of massive unpermitted and, therefore, illegal amounts of sulfur dioxide, nitrogen oxide and/or particulate matter into the environ-

"Those stations are the lowest cost per megawatt hour of any fuel source, and they are getting increasingly clean."

Steve Roalstad
Xcel spokesman

ment," the notice said. "Until these violations are corrected, Xcel will continue to release massive amounts of illegal emissions into the environment."

More specifically, EPA regulators say if state-of-the-art controls were added to the two plants in question, they could eliminate more than 25,000 tons of sulfur-dioxide and 10,000 tons of nitrogen-oxide emissions per year.

Both pollutants aid in the formation of acid rain, as well as ground-level ozone and tiny particulates.

Put another way, 25,000 tons of sulfur dioxide is the equivalent of 11 times what is generated by all the ve-

hicles in the Denver metro area annually, according to figures from the Colorado Department of Public Health and Environment.

The EPA notice is dated June 27 but became public Monday when Xcel filed required paperwork with the U.S. Securities and Exchange Commission notifying shareholders of the federal allegations.

In its SEC filing, Xcel said it believes it has acted in full compliance with the Clean Air Act, and that the work performed at the two plants fit under a regulatory exemption for routine maintenance, repair and replacement. The company intends to "vigorously defend" its position.

The work performed at the plants

was designed to make them more efficient and "absolutely" amounted to routine maintenance, said Xcel spokesman Steve Roalstad.

"It's important that those plants remain operating in an efficient manner to meet demand growth," he said. "We made sure they were maintained well so we could continue to serve our customers. Those stations are the lowest cost per megawatt hour of any fuel source, and they are getting increasingly clean."

The EPA action might be considered a surprise, as the provisions of the Clean Air Act the agency is citing in its allegations — commonly called New Source Review — are under intense scrutiny by the Bush administration, which wants to alter the air-pollution rules in a way that might render the enforcement effort moot. Utilities have pushed hard for the revamped rules.

But Richard Long, head of EPA air programs for the regional office in Denver, said the agency was under no pressure from Washington to abandon strong cases, and pushed

Flip to EPA on 8A

EPA: Comanche, Pawnee plants are eyed

Continued from 5A

aside the idea that it would let power plants off the hook for air pollution violations.

"We in the region have never received one phone call, one memo, one suggestion that we back off of a strong enforcement program," Long said.

"In fact, the message is, 'You need to move forward if you have a good enforcement case.'"

By the same token, however, Xcel said it believed its case was only strengthened by recent and proposed changes to the relevant provisions of the Clean Air Act.

"When you consider that the EPA out of Washington last month promulgated clarifications on this very

subject, we know we are in full compliance," Roalstad said.

EPA investigators in Denver started scrutinizing Xcel's operations in December 2000 as part of a nationwide effort to ensure that operations of aging power plants and other industrial sites aren't violating amendments to the Clean Air Act.

Under those amendments, older facilities are exempt from adding new pollution controls — unless they undertake major improvements, such as adding turbines and boilers, that will increase emissions by 40 tons a year or more and significantly extend the life of the facility.

The key point of contention between the EPA and the industry: Whether upgrades to aging facilities

count as "routine maintenance," in which no new permit is needed, or if they are "significant modifications."

The Xcel plants in question are the Comanche, near Pueblo, which generates 660 megawatts and came online in 1975, and the Pawnee, near Fort Morgan, which generates 505 megawatts and came online in 1981.

Long said EPA sent a letter to Xcel months ago, inviting the company to talk over the agency's concerns.

"They have not even scheduled a meeting with us, so we went ahead with the notice of violation," Long said.

*hartmant@rockymountainnews.com or
(303)892-5048.*

Executive Briefing

Minneapolis-based power firm **Xcel Energy** could face substantial fines and be forced to install new emissions reduction equipment at two Colorado coal-fired plants after the **EPA** accused the firm of violating the Clean Air Act. EPA on July 1 issued Xcel Energy a Notice of Violation for alleged breaches of the Clean Air Act stemming from work Xcel has conducted at its Pawnee and Comanche power plants (p. 1).

The **White House Office of Management and Budget** is forcing **EPA** to rethink key aspects of an upcoming proposal to control hazardous air pollutants from industrial boilers and furnaces (p. 2).

Environmentalists and **EPA** officials are mulling a settlement proposal they that could limit the amount of time industry has to apply for state air permits (p. 2).

A new **Zogby** poll shows more than 75 pct of US voters oppose President Bush's initiative to combat global warming with voluntary CO₂ emissions cuts by industry (p. 3).

The **Lower Colorado River Authority** (LCRA) has announced plans to install SO₂ scrubbers at units 1 and 2 of its Fayette County, Texas power plant (p. 3).

Federal Register ... p. 2
Allowances ... p. 4

EPA Says Xcel Power Plants Violated New Source Review

Minneapolis-based power firm **Xcel Energy** could face substantial fines and be forced to install new emissions reduction equipment at two Colorado coal-fired plants after the **EPA** accused the firm of violating the Clean Air Act.

EPA on July 1 issued Xcel Energy a Notice of Violation for alleged breaches of the Clean Air Act stemming from work Xcel has conducted at its 505MW Pawnee and 660MW Comanche power plants.

According to **EPA**, Xcel made alterations to the plants' boilers from 1994 onwards without obtaining permits needed under new source review (NSR). NSR requires advanced emissions controls at industrial facilities if they make changes to their plants so as to significantly increase air pollution.

Xcel also stands accused of operating the modified boilers without installing pollution control equipment required by the NSR. The **EPA** says the alleged violations have caused the release of "massive" amounts of illegal, unpermitted SO₂, NO_x and particulates. "Until these violations are corrected, Xcel will continue to release massive amounts of illegal emissions into the environment," the **EPA** said.

An Xcel spokesman said "routine maintenance" repairs to the water reheaters at the two power plants boosted the efficiency of the units without increasing their emissions or capacity. Xcel said it plans to "vigorously defend" itself against the **EPA's** allegations.

Xcel has 10 days from the receipt of the NOV to request a conference with the **EPA** to defend its position.

But should the **EPA** decide to take Xcel to court, the firm could face fines running into millions of dollars. Xcel could be forced to pay up to \$25,000 for each violation of the Clean Air Act committed before January 30, 1997 and fines of up to \$27,500 for each infringement made after that date.

The energy company had come forth earlier this year with a plan to voluntarily cut SO₂ emissions by 85 pct and NO_x emissions by 30 pct (AD 3/28/02). But **EPA** lobbied against the legislation to enact the emissions cuts and now the agency is trying to subject the utility to NSR, an Xcel source said.

The Xcel NOV comes at a time when **EPA** is facing criticism from environmentalists who are concerned that **EPA** has stopped enforcing NSR violations by power plants because of the controversy surrounding NSR lawsuits initiated against utilities by the Clinton administration.

AIR Daily Emission Allowance Prices

	Price	Bid	Offer	Change
SO ₂ Daily Price	137.00	134.00	138.00	-10.00
NO _x Daily Price	700.00	650.00	750.00	0.00

EPA: Xcel broke

By Theo Stein

Denver Post Environment Writer

7/9/02

Dispute centers on upgrades at 2 plants

Xcel Energy violated the Clean Air Act by failing to install pollution controls when it upgraded its power plants in Brush and Pueblo in the 1990s, the U.S. Environmental Protection Agency said.

The company will appeal the finding, but it could be subject to tens of millions of dollars in penalties if found to have violated the "New Source Review" provision of the law, agency officials said.

In a June 26 letter to Xcel, the EPA stated that modifications the company made to its Pawnee and Comanche generating stations between 1994 and 2000 required new pollution controls.

"It's not like they were just replacing a few tubes here and

there," said Ron Rutherford, EPA's senior air enforcement coordinator in Denver. "They were replacing whole systems inside their boilers."

The company also would have to install new pollution-control equipment, which would run into the hundreds of millions of dollars. Earlier this year, Xcel said it would cost \$248 million to install less-effective pollution controls.

In a Monday filing with the U.S. Securities and Exchange Commission, Minneapolis-based Xcel denied violating the federal regulations. The state's largest energy producer said the projects were not

subject to the rules.

"Everybody has to have routine maintenance on their car, just as we need routine maintenance on our generating facilities," said spokesman Steve Roalstad.

The national debate over New Source Review enforcement heated up this spring when the Bush administration sought to grant broad exemptions to the oldest and dirtiest power plants, causing the EPA's top enforcement official to resign in protest.

"Region 8 is relying on sound science and the law," said John Barth, an environmental attorney who successfully sued power plants in

Craig and Hayden to reduce pollution affecting the Mount Zirkel Wilderness Area. "The administration is relying on politics. Hopefully, they'll be able to follow through with this violation without political interference from Washington."

The 660-megawatt Comanche plant near Pueblo and the 505-megawatt Pawnee plant near Brush are fired by coal, a key element of the Bush energy plan. One megawatt is enough electricity for 1,000 typical U.S. homes.

Rutherford said the New Source Review provision, adopted in 1977, was intended to allow existing power plants time to upgrade to

clean-air law

meet new pollution standards.

"Basically, (existing plants) were grandfathered in until they made major modifications that increased their emissions," he said.

But the rules also exempt routine maintenance. "That's the whole crux of the debate," he said. "Routine maintenance" was not clearly defined. The industry lobbied for a broad definition, and now they claim they don't know what it means."

Xcel's modifications increased emissions of sulfur dioxides and nitrous oxides by "several times" more than the 40 tons per year that triggers a review, officials said.

The energy industry has long opposed the rules, claiming they de-

Please see XCEL on 4B

XCEL from Page 1B

ter companies from investing in newer, cleaner technologies and from keeping plants maintained.

Plant owners have to risk enormous costs if work crosses the line between upkeep and new investment, they say. Deferring maintenance compromises the reliability of power plants and increases the risk of outages, they say.

While the cost of adding one sulfur dioxide scrubber can approach \$10 million, the benefit in terms of air pollution reductions can be immense — as much as 90 percent.

"We're not talking peanuts here," said Rutherford.

New controls on the Pueblo and Brush generating stations could eliminate more than 25,000 tons of sulfur dioxide, a component in Denver's winter brown cloud, that's injected into the Front Range's air every year.

Rutherford said hundreds of power plants across the country comply with the strict emissions requirements and still deliver electricity at competitive rates while putting out one-tenth the pollution of the old plants.

"It's unfair that old plants shouldn't have to do it at some point," he said. "We're saying it's time for them to step up to the plate."

Denver Post Staff Writer Steve Raabe contributed to this report.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

MAR - 4 2002

Ref: 8ENF-T

Mr. Olon Plunk
Vice President, Environmental Services
Xcel Energy
4653 Table Mountain Drive
Golden, CO 80403

Dear Mr. Plunk:

For the past 3 years the Environmental Protection Agency (EPA) has been conducting a series of investigations to determine whether the installation of certain components at coal fired power plants is being implemented in a manner that complies with the New Source Review provisions of Parts C and D of Title I of the Clean Air Act (herein "NSR requirements") (42 U.S.C. §§ 7470 - 7503) and the New Source Performance Standards ("NSPS") found at 40 CFR Part 60, Subpart Da. As part of these investigations, EPA has reviewed a number of modifications at the Pawnee Generating Station and the Comanche Generating Station owned and operated by Xcel Energy, Inc. (Xcel) in Colorado.

When the Clean Air Act (Act) was passed, Congress exempted existing facilities from many of its requirements. However, Congress also made it quite clear that this exemption would not last forever. As the United States Court of Appeals for the D.C. Circuit explained in Alabama Power v. Costle, 636 F.2d 323 (D.C. Cir. 1979), "the statutory scheme intends to 'grandfather' existing industries; but... this is not to constitute a perpetual immunity from all standards under the PSD program." Rather, the Act requires grandfathered facilities to install modern pollution control devices whenever the unit is proposed to be modified in such a way that its emissions may increase. Given that the majority of coal fired power plants are more than 30 years old, one would have expected that many coal fired utilities would have undergone modification and installed modern controls in the decades that have passed since enactment of these requirements. Indeed, it appears that there has been quite substantial capital investment in grandfathered coal fired power plants. These projects have enabled electric power generation from coal fired power plants to nearly double since Congress adopted the NSR requirements. However, the operators of some of these plants did not install the controls mandated by the NSR requirements at the time these modifications were made.

Based on our review of Xcel's response to EPA's December 28, 2000, CAA §114 request for information, it appears that there have been instances where capital projects involving the replacement of key plant components have been made at the Pawnee and Comanche Generating



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Stations which resulted in increased emissions without Xcel, or its predecessor companies, Public Service Company of Colorado or New Century Energy, seeking or securing major new source review permits. In internal documents provided to EPA in Xcel's §114 response, company officials and/or contractors have represented that these projects will provide for an increase in utilization through reduction in downtime and/or an increase in generating capacity. In either case, it appears to us that such projects resulted in an increase in emissions and were not offset by the installation or upgrade of pollution control equipment or other available emission reduction strategies. Based on the documentation provided to EPA, we have identified major projects related to increased generation and coal consumption resulting in increased annual NO_x and SO₂ emissions. In several instances, the increase in emissions of SO₂ and NO_x are much greater than the 40 tons per year significance increase thresholds for SO₂ and NO_x that trigger major NSR requirements. For example, in 1994, Comanche Unit 2 replaced and redesigned the reheater because, "In short, the tube material has reached the end of it's useful life", in 2000, Comanche Unit 1 completed a reheater and arch wall replacement and redesign project, and in 1997, Pawnee performed a redesign and upgrade of the condenser tubes to regain lost generation due to condenser tube failures.

The WEPCO rule (57 FR 32314, July 21, 1992) requires that the source compare projected representative future emissions to past actual emissions (an "actual to projected future actual" test) for evaluating nonexempt modifications. Where it is projected that emissions will not increase by more than the significance level, major NSR requirements are not triggered. However, in such instances the rule requires that documentation of the validity of the source's projection be furnished by submitting actual emission data for 5 years following the change. We are not aware that such documentation has been submitted for any of the modifications identified.

Based on the facts as we currently understand them, we believe that many capital projects, especially "life extension programs," do not fall within the scope of the "demand growth" exclusion found at 40 CFR 51.166(b)(32)(ii) or the "routine maintenance" exemption found at 40 CFR 52.21(b)(2)(iii). Contrary to speculation by some, our view that such projects may trigger NSR and/or NSPS requirements is not based on recent, new interpretations of the law, but on a straightforward reading of the 7th Circuit opinion in Wisconsin Electric Power Company v. EPA, 893 F.2d 901 (7th Cir. 1990), the 1992 WEPCO rule demand growth exclusion, 40 CFR 51.166(b)(21)(v) and the preamble to the WEPCO rule (57 FR 32314, July 21, 1992). The EPA has also spoken clearly on these issues in administrative determinations, including three determinations by the prior administration in the WEPCO matter. All significant EPA determinations respecting these issues are made available to the industry at the time they are made and can now be reviewed by interested members of the public, including industry representatives, via the Internet.

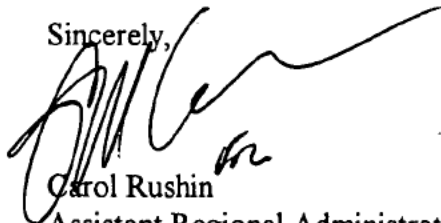
Given the significance of these issues, we are requesting a meeting with representatives of Xcel to discuss any statutory or regulatory interpretations that might suggest that these modifications do not trigger applicable NSR or NSPS requirements. We would also like to ascertain whether there are significant broad issues of fact that may be in dispute.

At such a meeting we would be prepared to outline our view of the law and discuss some

illustrative fact patterns and would expect Xcel to identify any differences in understanding of the law or facts of which it is aware. We are not proposing to debate points of proof or evidence at this meeting. In addition to providing an opportunity for EPA and Xcel to understand each other's view on legal and technical issues, we would also be prepared to put forth several concepts for resolution of any differences that may be identified and would hope to receive any thoughts Xcel may have to offer in this regard. We would hope to engage in a candid exchange of views on the issues rather than a discovery or public relations opportunity for either side. Accordingly, we would hope to reach agreement with Xcel that such a meeting would be a confidential settlement discussion subject to Rule 408, Fed. R. Evid.

This letter is not intended to serve as a Notice of Violation under the Clean Air Act, nor is it intended to affect any rights Xcel may have to request a conference with EPA officials upon receipt of a Notice of Violation. Please contact Ron Rutherford of my office at 303-312-6180 if Xcel is interested in participating in such a meeting. We would very much like to schedule this meeting at your earliest convenience. However, if we do not hear from you within 30 days of the date of this letter, we will assume that you are not interested in a meeting and will proceed with our investigation accordingly.

Sincerely,



Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

cc: Doug Benevento, Environmental Programs Director
Colorado Department of Public Health and Environment

Bruce Buckheit, Director
Air Enforcement Division
US EPA Office of Enforcement and Compliance Assurance

bcc: Jim Eppes
O. SINK



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Business Name:	Public Service Company of Colorado
D&B® D-U-N-S® Number:	00-691-5953
Address:	1225 17th St
City:	Denver
State/Province:	Colorado
Country:	USA
Zip/Post Code:	802025534
Previous D-U-N-S Number:	052103285
Telephone:	3035717511
Operating Status:	Active
Mailing Address:	P.O. BOX 840
Executive(s):	Wayne H Brunetti, Pres-Ceo-Chb Henry Hamilton Teresa Madden David Wilks Edward J McIntyre Paul Bonavia Tom Petillo Richard C Kelly Brian Jackson Crawford A Clegg David E Ripka
Industry Sector(s):	4911 - Electric services 4922 - Natural gas transmission 4924 - Natural gas distribution
Year Started:	2000
Employees Here:	700
Total Employees:	6191
Annual Sales (US\$ 000):	1,741,600
Annual Sales (Local Currency 000):	1741600
Net Worth (US \$000):	1,990,098
Net Worth (Local Currency 000):	1990098
Subsidiary Indicator:	SUBSIDIARY
Business Structure:	This is a HEADQUARTERS Location
Headquarters Parent D&B® D-U-N-	84-838-1245 XCEL Energy Inc

S®:

Domestic Ultimate D&B® D-U-N-S®: 84-838-1245 XCEL Energy Inc

Global Ultimate D&B® D-U-N-S®: 84-838-1245 XCEL Energy Inc

Global Ultimate D-U-N-S Country: USA

Marketability Code: YES

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April 6, 2002 - GTO

Xcel Energy, headquartered in Minneapolis, Minnesota, is the nation's fourth largest utility company serving both electricity and natural gas customers.

Formed in August 2000 by the merger of Minneapolis-based Northern States Power Co. and Denver-based New Century Energies, Xcel Energy serves 12 states and has revenues of more than \$11 billion annually. Synergies realized by the merger are expected to result in more than \$1.4 billion in cost savings over the next decade, benefiting customers and shareholders.

BAKER BOTTS LLP

THE WARNER
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JUL 9 2002

July 8, 2002

Via FedEx

James Eppers, Esq.
Enforcement Attorney
Office of Enforcement, Compliance & Environmental Justice
U.S. Environmental Protection Agency Region 8
999 18th Street, Suite 300
Denver, CO 80202

Re: Notice of Violation: Docket No. CAA-08-2002-06

Dear Mr. Eppers:

On behalf of Xcel Energy, Inc., I am responding to the Notice of Violation issued June 27, 2002, and received on July 1, 2002, to Excel Energy, Inc. Xcel Energy requests the opportunity to confer with EPA regarding the NOV and the allegations set forth therein.

Please contact me at your convenience to schedule a mutually convenient time for the conference. Also, please direct all future correspondence related to this matter to me.

Thank you for your attention to this matter.

Sincerely,



William M. Bumpers
Counsel to Xcel Energy, Inc.

cc: Bruce Buckheit
Doug Benevento
Frank Prager
Olon Plunk

